GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal petition filed by Sri B.S.R. Krishna Mohan, S/o Latchi Ramaiah, Rtd. Railway Employee, Hyderabad, against the proceedings No. Rc.604/2013/C4 , dated 15.10.2014 of the District Collector, Guntur - under section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No. 16/1993) – Appeal Petition dismissed – Orders - Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.MS.No. 23 **Dated: 24-03-2017**

Read the following:

1. Proceedings of the District Collector, Guntur, No. Rc.604/2013/C4 , dated 15.10.2014.
2. Order of the Hon'ble High Court of A.P., Hyderabad in W.P.No.19663/2015, dated 01.07.2015 filed by Sri Sri B.S.R. Krishna Mohan.
3. Appeal Petition filed by Sri B.S.R. Krishna Mohan, S/o Latchi Ramaiah, Rtd. Railway Employee, Hyderabad, dated 31.07.2015.
4. Govt. Memo No.6237/CV.2/2015, T.W(CV.2) Department, dated:11.09.2015.
5. From the Dist. Collector, Guntur, Lr.No.Rc.No.7/2016/C4, dated: 26.01.2016.
6. Govt. Memo No.6237/CV.2/2015, T.W(CV.2) Department, dated:26.04.2016.
7. Letter received from Sri B.S.R. Krishna Mohan, dated 10.05.2016.

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ORDER:

In the reference 1st read above the District Collector, Guntur has issued orders canceling ST-Sugali Caste Certificate obtained from the then Tahsildar, Repalle in 1977 & 1978 by Sri B.S.R. Krishna Mohan, S/o Latchi Ramaiah.

2. In the reference 2nd read above, Sri B.S.R. Krishna Mohan, S/o Latchi Ramaiah, has filed W.P.No.19663/2015 before the Hon'ble High Court of A.P., Hyderabad, against the proceedings No. Rc.604/2013/C4 , dated 15.10.2014 of the District Collector, Guntur. The Hon'ble High Court of Andhra Pradesh, while disposing the said WP, on 01.07.2015 has permitted the petitioner herein to file an appeal under Section 7 of the A.P. (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993 against the order in Rc.No.604/2013/C4, dated 15.10.2014 passed by the first respondent-Collector & District Magistrate, Guntur, within a period of one month from the date of receipt of a copy of the order. If any such appeal is filed within the period stipulated above, the same shall be dealt with in accordance with law and appropriate orders be passed within a period of two months thereafter after giving notice and opportunity to the petitioner. But due to several administrative difficulties the appeal petition could not be disposed off within the time limit as directed by Hon'ble High Court.

3. In the reference 3rd read above, as per the directions of the Hon'ble High Court of A.P., in W.P.No.19663/2015, dated 01.07.2015, Sri B.S.R. Krishna Mohan, S/o Latchi Ramaiah, has filed an Appeal Petition before the Government, against the said Proceedings of the District Collector, Guntur. After examining the Appeal Petition, Government have admitted the Appeal Petition and called for the parawise remarks and connected records from the District Collector, Guntur in the reference 4th read above.

4. In the reference 5th read above, the District Collector, Guntur has furnished the parawise remarks and connected records on the Appeal Petition filed by Sri B.S.R. Krishna Mohan, S/o Latchi Ramaiah.

5. The said Appeal Petition has been posted for hearing on 23.01.2016 & 14.05.2016 and the same has been informed to the Appellant and the Counsels

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for the Appellant and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the Community claim, failing which, it will be construed that there is no claim what-so-ever in the matter and it will be decided based on the material available with the Government in the references 4th & 6th read above. In the reference 7th read above, the appellant has stated that his two advocates were absent due to one is Sri R.V. Mallikarjuna Rao went to vocational holidays at present out of station, 2nd advocate Sri R.Rajasekhar Rao is undergone treatment in the Hospital and his health was not well due to back pain under treatment and requested for adjournment. The Appellate Authority has rejected the request of the appellant for adjournment.

6. After examination of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by District Collector, Guntur and proceedings of the District Collector, Guntur, dated 15.10.2014, the following points observed by the Appellate Authority on the community claim of Sri B.S.R. Krishna Mohan:

I. The appellant has claimed that he originally belongs to Padmasali (BC) Caste and his natural parents viz., Koutarapu Rangaiah and Tirupathamma are residents of Ilavaram village of Battiprolu Mandal, Guntur District. He was given adoption to Sri Bhukya Lachiramaiah and Suvarna, who belongs to SUGALI (ST) caste at the age of (10) years as they got (6) female children, but no male child. He has also reported that his adopted father died and mother is alive and she is residing with him. The appellant has also stated that the Joint Collector not satisfied with the statement of himself and the report of the Tahsildar.

II. He has also stated that the Tahsildar, Bhattiprolu Mandal vide Lr.Rc.No.366/2013/B, dated 25.07.2013, was reported that the couple of Bhukya Latchi Ramaiah (late) and Survarna, who are the residents of Vellaturu village of Bhattiprolu Mandal after they got (3) female children, adopted the appellant at the age of 10 years, who is the son of Koutavarapu Rangaiah and Thirupathamma, R/o Addepalli H/o. Ilavaram of Bhattiprolu Mandal in the year 1962 and then moment, he lived with adopted parents following Sugali customs and traditions. He passed matriculation in the year 1969 and got job through Railway Recruitment Board as Commercial Clerk under ST Reservation**. At the age of 17 years of Bhukya siva Ramakrishna Mohan, the adoption was registered on 13.04.1970 in the office of the Sub-Registrar, Bhattiprolu Taluk**. He obtained the Sugali-ST caste Certificate dated:27.5.1977 and 25.05.1978 from the Tahsildar, Repalle. He conducted the last rites of Bhukya Latchi Ramaiah, who is the adopted father of Sivarama Krishna Mohan. In the year 1983 he married Chintada Girija who belongs to Viswarahmin BC Caste. They got two children and obtained SUGALI-ST Certificates from the Mandal Revenue Officer, Vijayawada.

III. The District Level Scrutiny Committee has reviewed the enquiry report of the Tahsildar, Bhattiprolu and the evidences produced by the individual, opined that the individual obtained ST-Sugali caste certificate from the Tahsildar, Rapalle by misrepresenting the facts and obtained the ST certificate fraudulently to derive the benefits meant for the ST's by falsely implicating the adoption deed, thus depriving the genuine ST's of their benefits and also obtained job in the ST category and enjoying the same till now. The contention of the appellant that he was taken in adoption at the age of (10) years not correct because the individual has failed to produce any documentary evidence to support his age at the time of adoption is 10 years. He produced only the adoption deed register which was registered on 13.4.1970 in the office of the Sub Registrar, Bhattiprolu. In that register it is clearly noted that the individual's age is (17) years. The

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custom or usage applicable to such adoption not proved. Based on the recommendations of the DLSC, the District Collector, Guntur has issued notices to the individual to file any objections on the opinion of DLSC within (15) days. But, no reply was received within the stimulated time, since the then District Collector has issued proceedings cancelling the ST-Sugali caste certificate of the appellant.

IV. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.

V. Further it is observed that in Circular Memo. No. 10956/CV1/97-2, S.W (CV) Department, dt.16.2.1998 instructions were issued by the Government for issuance of Caste Certificates. As per the said instructions, the adoption rules are as follows:

i. In deciding whether an adoption is valid, the certificate issuing Authority should satisfy himself that all the requirements of law have been complied with. He should also take into account the behavior of the child after adoption whether he physically lives with and is supported by his adoption parents and receives no financial help from his original parents. In case these conditions are not satisfied, the certificate should be refused.

ii. The Caste Certificates in case of adoption children by Scheduled Caste and Scheduled Tribe parents, the powers are delegated to Joint Collectors. The Joint Collectors should exercise greater care in issuing of this type of certificate.

iii. The Caste Certificates in the above cases shall be issued only for the children below 15 years of age. The adopted children should live for a minimum period of 5 years with the adopted parents for issue of Caste Certificates in the adoption cases.

Therefore the Appellant's adoption is not valid one and as per Circular Memo.No.10956/CV1/97-2, S.W.(CV) Department, dt.16.2.1998, he can't claim the benefits of ST's, even though there is adoption .

VI. The Appellate Authority is observed that the appellant admittedly a BC-Padmasali community and adopted by Sri Bhukya Latchiramaiah and Suvarna who belong to ST-Sugali community and he obtained adoption certificate in 1970. Further, Appellant has not produced any relevant documents/material in support of his ST-Sugali community claim other than the copies of the adoption certificate and caste certificate issued by the Tahsildar, Repalle and school record, at the time of filing the appeal petition, but it is not sufficient to prove the genuiness of the caste of the appellant, the school record is generated based on declaration given by the parents. Hence it can be held that mere school certificates cannot be accepted as reflection of true caste of person. Hence Government have examined the entire record & material relevant to the instant case and it is decided that the appellant obtained caste certificate fraudulently and the appellant has no iota of evidence to show that he given adoption into the ST-Suglai community. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity found either in the order of the learned DLSC or the District Collector, Guntur.

7. The Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward

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Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decided that the Appeal Petition filed by Sri B.S.R. Krishna Mohan, S/o Latchi Ramaiah, does not deserve any interference. Hence, Proceedings of the District Collector, Guntur issued vide Rc.604/2013/C4 , dated 15.10.2014, is hereby upheld and the Appeal Petition filed by Sri B.S.R. Krishna Mohan, S/o Latchi Ramaiah, is hereby dismissed and the Certificate issued by the then Tahsildar, Repalle deemed to be cancelled.

8. Consequently, the District Collector, Guntur shall take necessary action in the matter.

9. The records (containing Rc.604/2013/C4 , dated 15.10.2014, pages 01 to 149) received from District Collector, Guntur through 5th read above, are returned herewith in original to the District Collector, Guntur t and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.P. SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The District Collector, Guntur (w.e)
(with original records)

Sri B.S.R. Krishna Mohan, S/o Latchi Ramaiah,
Flat No.103, Plot No.1-1-17(a), Swetha Enclave,
Jawahar Nagar, Ashok Nagar, Hyderabad-20.

M/s: R.V. Mallikarjuna Rao and Sri R. Rajasekhar Rao, Advocates,
Flot No.514, Dwaraka Chandra Residency, Road No.1,
Vijayapuri Colony, Lingojiguda, Near Karmanghat 'X' Road,
Hyderabad-035.

Copy to:
The Director, TCR& TI, AP, Hyderabad.
The OSD to M(SWE& TWE).
The PS to Prl. Secretary(TW)

// FORWARDED:: BY ORDER //

SECTION OFFICER